

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES – GENERAL

Case No. SACV 22-01064-CJC (KESx)

Date: July 7, 2022

Title: MASOUMEH KABIRI SHARIFI V. ASHLEY HOMESTORE, ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Rolls Royce Paschal
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS) ORDER GRANTING PLAINTIFF’S
MOTION TO REMAND AND REMANDING CASE TO ORANGE COUNTY
SUPERIOR COURT [Dkt. 8]**

Plaintiff Masoumeh Kabiri Sharifi moves to remand this action to Orange County Superior Court on the ground that Defendant’s Notice of Removal was not based upon the allegations in his operative complaint but on Plaintiff’s initial complaint which omitted a non-diverse defendant in this case. Federal “circuits have unanimously and repeatedly held that whether remand is proper must be ascertained on the basis of the pleadings *at the time of removal*.” *Broadway Grill, Inc. v. Visa, Inc.*, 856 F.3d 1274, 1277 (9th Cir. 2017) (emphasis added).

Here, Defendant concedes that it was served with Plaintiff’s First Amended Complaint (“FAC”) before it filed its Notice of Removal, ignoring the allegations in the FAC which added a non-diverse Defendant, Ashieh Ghamartale. (Dkt. 10 at 7.) Indeed, Defendant’s Notice of Removal makes no mention of Defendant Ghamartale at all. (*See* Dkt. 1.) Since Defendant does not dispute that Defendant Ghamartale is non-diverse and its Notice of Removal was blatantly deficient in that it was based upon an inoperative pleading, the case must be remanded to Orange County Superior Court. *See Miller v. Grgurich*, 763 F.2d 372, 373 (9th Cir. 1985) (“When an action is removed on the basis of diversity, the requisite diversity must exist at the time the action is removed to federal court.”).

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Accordingly, Plaintiff's motion is **GRANTED**. The Court **REMANDS** this case to Orange County Superior Court. The Court finds this matter suitable for disposition without a hearing. L.R. 7-12. Accordingly, the hearing on this matter scheduled for Monday, July 11, 2022 at 1:30 p.m. is **VACATED** and taken off-calendar.

as
MINUTES FORM 11
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Initials of Deputy Clerk RRP